

OPEN SPACE COUNCIL
MINUTES
Legislative Hall
Senate Hearing Room, Second Floor
Dover, DE
September 19, 2006
9:00 a.m.

ATTENDANCE

Council Members

Lynn W. Williams, Chairperson
Paul Boswell, Esq.
Donald Lynch
Harvey Marvel
William Powers, Jr.

Ex-Officio Members

Charles Salkin State Liaison Officer

Advisory to:

John A. Hughes, Department of Natural Resources & Environmental Control

Staff

Phil Carpenter	Parks & Recreation, DNREC
Matt Chesser	Parks & Recreation, DNREC
Bob Ehemann	Parks & Recreation, DNREC
Tim Kaden	Parks & Recreation, DNREC
Susan Moerschel	Parks & Recreation, DNREC
Robert F. Phillips	Deputy Attorney General
Mike Valenti	Department of Agriculture
Ron Vickers	Parks and Recreation, DNREC
Lee-Ann Walling	State of Delaware
Rose Ryödi	Parks and Recreation, DNREC

Visitors:

Lisa Arbeiter

I. Call to Order/Announcements

The meeting was called to order by Mrs. Lynn Williams, Chairperson, at 9:05a.m. Mrs. Williams welcomed members and visitors present. Mrs. Williams said there were matters arising on some of the votes at the June 20th meeting that would be brought up during the State Resource Area map session. Councilman Powers asked whether there was a quorum as there were five council members present. Mrs. Williams asked Mr. Robert Phillips, DAG, whether 5 Council members present constituted a quorum. Mr. Phillips referenced Title 7, Chapter 75, the Land Protection Act, in Section 7505 – Delaware Open Space Council (Effective July 2, 2006) (f) “For purposes of conducting business of the Council, 5 voting members shall constitute a quorum. A majority vote of the members present at a meeting at which a quorum is present shall be required on any action or matter before the Council.” Five Open Space Council members present were enough to constitute a quorum. The meeting continued.

II. Review of Minutes of the June 20, 2006 Meeting

Council Chair Lynn Williams made a motion to approve the minutes of the June 20, 2006 Open Space Council meeting. It was moved and seconded to approve the minutes as presented, motion carried.

III. Financial Report

The Open Space Program Fund Summary was discussed. Currently, in Realty Transfer Funds, there is \$9,772,580.30 left for FY07. There are 9 previously approved projects totaling \$8,829,737.00, leaving a balance of \$942,843.30 for the remainder of FY 2007. For FY 2008, the Open Space Program will receive \$9 million. There is a current commitment of \$3 million towards Glatfelter-Tunnel properties in Sussex County, leaving a remainder of \$6 million for FY 2008.

Mr. Vickers noted that the Conservation Fund-Melson property at the Mispillion River inlet was the only settlement since the last meeting. It sold for \$320,000, including carrying costs, for 43 acres.

IV. Agency and Public Presentation

A. State Resource Area Maps

Mrs. Williams said at the June 20th meeting, Rep. Valihura had reminded Council that they had agreed at the May 9th meeting that Secretary Hughes approve the SRA's after staff had completed the Additions and Deletions. Staff had come back with a list on June 20, but there was confusion as to how to handle this matter and Council agreed again to come back to this (September 19th) meeting hoping for a recommendation to resolve this issue. At the end of the last legislative session, Secretary Hughes spoke before the State Senate and agreed that DNREC would contact all of the landowners in the SRA directly. Mrs. Williams recognized that this was a huge job but because it was a large part of the concern at the June 20th meeting, and because a lot of people didn't know whether they were in the old or new SRA's, staff was asked to go back and determine who would be contacted. Staff has just finished refining New Castle County and Sussex County and is almost finished with Kent County. So far the total number of tax parcels is over 10,000.

Legislation was introduced and passed that would require all landowners to receive notification if their property was in an SRA. It also stated that the landowner could voluntarily opt out of being in an SRA. This legislation was vetoed by the Governor. The Secretary will proceed to sign an order approving the maps and then send them to the Counties. The Department will contract with outside consultants to be available to assist each County in implementing items related to the State Resource Area maps as an outgrowth of their Comprehensive Land Use Plans.

Mrs. Williams said the Natural Areas Advisory Council passed a motion that it was not qualified to deal with additions and deletions to the Natural Areas maps and that the issue should be dealt with by the Secretary and the Department. Mrs. Williams recommended that the Open Space Council adopt the same position. She said after reexamining legislation that created this Council, it was found that the only power Council has is recommending maps to the Secretary. Once Council made its recommendation, its authority as a Council was complete. Mrs. Williams asked for a motion to clarify that (1) Council not handle any additions or deletions to the SRA maps; (2) that this should be handled by the Department. It was so moved and seconded. During discussion Mr. Powers said he wished to amend the motion to include that there be an appeals process in place. It was noted that the legislation references an appeals process with the Counties. Mrs. Williams asked if all were comfortable with amending the motion to include an appeals process be in place. The Council concurred and the motion passed unanimously.

Council members discussed if the maps were a “taking” or would result in a devaluation of property. The consensus was that someone would probably bring forth a legal challenge.

- B. Delaware Trust Fund (DTF) 2006 Grant Applications:
Bob Ehemann, Grants Coordinator for the Delaware Land and Water Conservation Trust Fund, gave a PowerPoint presentation on the 2006 Park Acquisition and Development application requests. The total available funding is \$750,000, derived from the interest on the Trust Fund. Projects require a match from the sponsor.

Project Sponsor	Location	Project Description	DTF Grant
Bellefonte Park	Bellefonte Park	Passive park - pathway, benches, gazebo	\$30,000
Cheswold	School Lane Park	New park - pre-construction and development for ball field, playground, basketball	\$25,000
Dagsboro	Katie Helm Town Park	New park - picnic tables, benches, and parking	\$10,000
Dover	Dover Park	Replace out-of-date play equipment and benches	\$25,000
Greenwood	Brenda Jones Memorial Park	New park - play equipment, picnic tables, benches and water fountain	\$26,500
Kenton	Kenton Municipal Park	Walking path, fitness equipment, benches and new play equipment	\$10,000
Kent County	Browns Branch & Big Oak Parks	Restroom/park maintenance facility	\$62,000
Lewes	Lewes Canalfront Park	Public restroom	\$100,000

Milford	Milford Sports Complex	New park - soccer fields, a multi-purpose field, play equipment and parking	\$150,000
Newark	Fairfield Park	Replace out-of-date play equipment	\$9,500
New Castle County	Philly Pike & Shipley Rd	2.38 acres, Medori property across from Sellers Park	\$100,000
New Castle County	Route 9 near Llangolen Estates	16 acres, River Road property	\$100,000
New Castle County	Valero Park	Planning and design for a new district park (68 acres)	\$50,000
Newport	Ella Johnson Park	New park - pathway with fitness equipment, picnic tables, benches and parking	\$40,000
Smyrna	Park & Greenway Plan	Develop a park/greenway/open space plan	\$12,000
		Total	\$750,000

Mrs. Williams said she was sorry that Mr. McKenzie and Rep. Valihura were not present as they were very interested in these projects in past years. Mrs. Williams asked for a motion that the Delaware Trust Fund 2006 Grants Applications be recommended to the Secretary as presented by Mr. Ehemann. Mr. Boswell seconded the motion and the motion carried unanimously.

Public Comments:

Mrs. Williams opened the meeting to the public and invited Ms. Arbeiter (only public member) to speak. Ms. Arbeiter talked about her property of about 25 acres in New Castle County and issues with various government agencies, site conditions, and the neighborhood. She said during the SRA and Natural Area map process she learned a great deal and experienced problems in trying to be able to sell her property for development. She is selling her property but will probably purchase another forested property that may be in an SRA. She also thought the Trust Fund grant projects were good and that the State needed to get more funding because of all of the new development.

V. Executive Session- Discussion of Site Acquisition Contracts

The Council adjourned to Executive Session at 10:10 AM to discuss site acquisition contracts. The Council returned to Open Session at 10:30 AM.

VI. Project Recommendations

Based on discussion in Executive Session the Council determined the following:

- A. Loessner Property: 29.4 acres at Blackbird State Forest; contract price of \$295,000.00. It was moved, seconded and agreed to recommend the purchase of the Loessner property.

Mr. Boswell amended the motion so that the Council would recommend any acquisitions at today's meeting as long as the program doesn't get into a deficit. The amendment was approved.

- B. Sunshine Builders Property: 147 acres in central Kent County; contract price of \$410,000.00. It was moved, seconded and agreed to recommend the purchase of the Sunshine Builders property.
- C. Robinson Property: 13.39 acres at White Clay Creek State Park; previously recommended at \$1.1 million prior to final appraisal; with correct appraisal number requesting an additional \$370,000 for a total of \$1,470,000. It was moved, seconded and agreed that an additional \$370,000 be added to the original purchase price of the Robinson property.
- D. Sheats Farm: 163 acres near Blackbird Creek; contract price of \$1,802,750. It was moved, seconded and agreed to recommend the purchase of the Sheats property for \$1,802,750, using approximately \$1,400,000 of federal funds and approximately \$400,000 of Open Space funds.
- E. Eagles Nest/Annicelli Property: 359 acres near Blackbird Creek; offered contract price of \$3,240,000; potential partnership with federal funds; still negotiating a possible conservation buyer with a buyback in future fiscal year; potential cost to Open Space Program of \$1,750,000. It was moved, seconded and agreed to recommend the purchase of the Eagles Nest/Annicelli property for \$1,750,000, using a mixture of federal funds (if approved) and Open Space funds.

VII. Next Meeting

The next meeting will be held on Tuesday, December 12, 2006 at 9:00am at Legislative Hall in the Senate Hearing Room.

VIII. Adjournment

Council Chair Lynn Williams asked for a motion to adjourn the meeting, motion was seconded by Mr. Powers, and motion carried. Meeting adjourned at 11:10am.

Respectfully submitted,
Rose Ryödi